

REMARKS

Applicants thank Examiner Burnham for the courtesies extended to the undersigned during a teleconference on August 24, 2005. In the Office Action mailed June 21, 2005, the Examiner rejected claims 1-26. By way of the foregoing amendments and the markings to show changes, Applicants have amended claims 1, 12, 21 and 26, canceled claims 2 and 13 and added new claims 27 and 28. The foregoing amendments are taken in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicant would otherwise be entitled in view of the prior art.

I. Drawings

The Office Action objected to the drawings for lack of clarity. During the teleconference with Examiner Burnham, it was discovered that formal drawings, which had been filed in September of 2003 were not in the USPTO file. Applicants resubmit those drawings herewith to overcome the drawing objection.

II. Rejections under 35 USC 102 or 103

The Office Action rejected claims 1-26 as being anticipated by Leistra (5,782,537) or as being obvious in view of Leistra (5,782,537) in combination with one or more of Rink (5,092,942), Krassilnikov (US2003/0197296) and Nagamitsu et al. (US 2002/0060492). Applicants traverse these rejections. To expedite prosecution, Applicants have amended claims 1, 12, 21 and 26 and believe that those claims and their dependents are patentable over the references of record. Applicants have not amended claims 17-20, 23 and 25 and traverse the rejections of those claims with particularity below.

The MPEP 2143.03 reads that, "To establish prima facie obviousness...all the claim limitations must be taught or suggested by the prior art." In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Moreover, the MPEP reads that, "All words in a claim must be considered in judging the patentability of that claim against the prior art." In re Wilson, 424 F2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

The Court of Appeals for the Federal Circuit, in the case of In re Lee, 61 USPQ2d 1430 (CAFC 2002), wrote:

("Our case law makes clear that the best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references.");...The need for specificity pervades this authority. See, e.g., In re Kotzab, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000) ("particular findings must be made as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed"); In re Rouffet, 149 F.3d 1350, 1359, 47 USPQ2d 1453, 1459 (Fed. Cir. 1998) ("even when the level of skill in the art is high, the Board must identify specifically the principle, known to one of ordinary skill, that suggests the claimed combination. In other words, the Board must explain the reasons one of ordinary skill in the art would have been motivated to select the references and to combine them to render the claimed invention obvious."); In re Fritch, 972 F.2d 1260, 1265, 23 USPQ2d 1780, 1783 (Fed. Cir. 1992) (the examiner can satisfy the burden of showing obviousness of the combination "only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references").

Claim 17

The Office Action rejected claim 17 as being obvious over Leistra in view of Nagamitsu et al. Applicants traverse this rejection on the ground that Nagamitsu et al. is improperly combined with Leistra because Leistra and Nagamitsu et al. are from different fields of endeavor and the skilled artisan would be quite unlikely to look to Nagamitsu et al. as a reference for modifying Leistra. In particular, Nagamitsu et al. is directed toward a backrest of an office chair while Leistra is directed toward a seat back of an automotive vehicle. Since the "attachment locations" for a seat back of an automotive vehicle are typically subject to different forces than the forces typically inflicted upon office chairs, the individual skilled in the art of making automotive seat backs would be unlikely to look to the field of office chairs to assist in designing "attachment locations" for an automotive seat back. More specifically, automotive vehicles often travel at high rates of speed with frequent accelerations and decelerations, which can be quite abrupt. As such, the forces applied to automotive seat backs are often more severe and more repetitive than those experienced by

office chairs and attachments for automotive seat backs must often be designed to account for such forces. As such, the skilled artisan would be highly unlikely to consider designs of office chairs when attempting to design an automotive seat back. Applicants contend that the rejection of claim 17 is improper and request that it be withdrawn.

Claim 20

The Office Action rejected claim 20 as being obvious over Leistra in view of Nagamitsu et al. and Krassilnikov. Applicants traverse the rejection of claim 20 for the same reasons as the traversal of claim 17, but additionally because Applicants contend that Krassilnikov is improperly combined with Nagamitsu et al. and Leistra to arrive at an unwarranted obviousness rejection.

The skilled artisan would not be motivated to combine the teachings of Krassilnikov with Leistra because Krassilnikov is directed at the formation of foam seat cushions, not seat backs or ribs of seat backs. Claim 20 of the present application recites language describing its channel forming ribs and that language reads, "each of the channel forming ribs is formed by gas assist injection molding". Krassilnikov does not appear to mention ribs or formation thereof. The Office Action attempts, at page 9, to suggest that paragraph (10) of Krassilnikov describes a gas assisted injection molding process and that paragraph (124) of Krassilnikov describes the use of such process for forming chair backs. However, a closer look at these paragraphs reveals that paragraph (10) discussed the use of pressurized gas to remove a molded product from a mold. Moreover, paragraph (124) only suggests the formation of foam seat pads or cushions. Neither of the paragraphs (10) or (124) of Krassilnikov nor the remainder of Krassilnikov remotely relate to ribs or even ribs for seat backs. As such, Applicants assert that Krassilnikov is improperly combined with Nagamitsu et al. and Leistra to arrive at an unwarranted obviousness rejection that is based upon impermissible hindsight. Applicants request that the rejection of claim 20 be withdrawn.

Claim 23

Claim 23 reads, “wherein the channel forming ribs form tubular structures in conjunction with the main wall”. Applicants traverse the rejection of claim 23 and contend that Leistra does not show or suggest multiple channel forming ribs that form multiple tubular structures with a main wall as is claimed. As such, Applicants contend that the Office Action fails to properly assert a *prima facie* case of obviousness against claim 23 of the present application as it ignores the aforementioned language in that claim. Applicants request that the rejection of claim 23 be withdrawn.

In addition to the above, Applicants note that the Office Action, at page 3, suggests that Leistra shows “channel forming ribs (44)” that are “integrally formed of homogeneous material.” Applicants, at this juncture do not admit or contest this statement alone. However, Applicants do assert that this statement, for at least some of the claims of the present application, ignores the language of those claims as a whole. Applicants assert that for at least some of the claims of the present application, Leistra does not show channel forming ribs that are integrally molded of single material and which form tubular structures with the main wall of the panel of the seat back. Rather, Applicants point out that the structure of Leistra that, during the teleconference, was indicated as being a channel forming rib actually includes a cap 58 which is designed to allow the receipt of a seat belt and which, when removed, prevents that structure from forming a tubular structure.

Moreover, Applicants point out that it would likely be improper to present a final rejection of claims 17-20, 23 and 25 on a grounds alternative to that already presented since applicants have not amended claims 17-20, 23 and 25 in a manner, which would necessitate such alternative grounds. In particular, the MPEP reads:

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee...” MPEP 706.07(a)

Thus, any new grounds of rejection, “that is neither necessitated by applicant’s amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee...” would be improper.

By amending the application, the Applicants do not concede that the patent coverage available to them would not extend as far as the original claim. Rather, Applicants intend to file a continuation application to pursue the breadth of the claims as filed. Applicants believe that the Examiner has not made a sufficient showing of inherency of the teachings of the asserted prior art, especially given the lack of teachings in the cited references of the properties that Applicants have recited in their claims.

Further, by the present amendment, it does not follow that the amended claims have become so perfect in their description that no one could devise an equivalent. After amendment, as before, limitations in the ability to describe the present invention in language in the patent claims naturally prevent the Applicants from capturing every nuance of the invention or describing with complete precision the range of its novelty or every possible equivalent. See, Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., 62 USPQ2d 1705 (2002). Accordingly, the foregoing amendments are made specifically in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled.

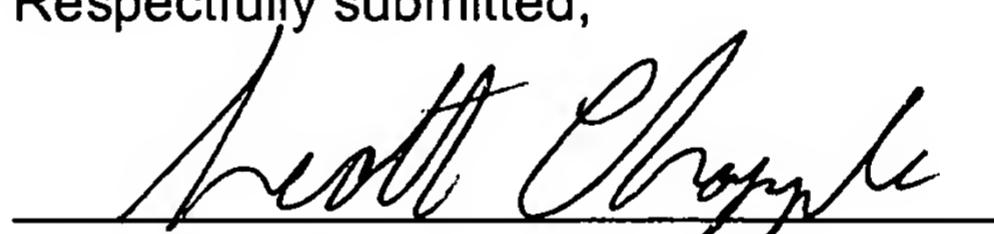
CONCLUSIONS

In view of Applicants' amendments and remarks, the Examiner's rejections are believed to be rendered moot. Accordingly, Applicants submit that the present application is in condition for allowance and requests that the Examiner pass the case to issue at the earliest convenience. Should the Examiner have any question or wish to further discuss this application, Applicant requests that the Examiner contact the undersigned at (248) 292-2920.

If for some reason Applicant has not requested a sufficient extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent the abandonment of this application, please consider this as a request for an extension for the required time period and/or authorization to charge our Deposit Account No. 50-1097 for any fee which may be due.

Respectfully submitted,

Dated: 25 Aug 05, 2005



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